

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS
UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES

NO

1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?

2. Does the action result in either a permanent or indefinite physical occupation of private property?

3. Does the action deprive the owner of all economically viable uses of the property?

4. Does the action deny a fundamental attribute of ownership?

5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO, skip questions 5a and 5b and continue with question 6.]

5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?

5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?

6. Does the action have a severe impact on the value of the property?

7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO, do not answer questions 7a-7c.]

7a. Is the impact of government action direct, peculiar, and significant?

7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?

7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with § 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.

Board of Environmental Re
MAR Notice No. 17-304

In the matter of the amendment of ARM 17.38.201A, 17.38.203, 17.38.206, 17.38.216, 17.38.234 and 17.38.239 pertaining to incorporation by reference, maximum inorganic chemical contaminant levels, maximum radiological contaminant, chemical and radiological quality samples, testing and sampling records and reporting requirements and public notification for community and noncommunity supplies.

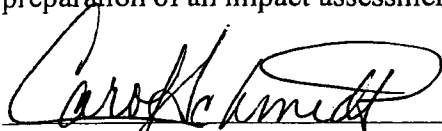
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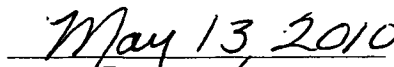
DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS OR DAMAGINGS IMPLICATIONS
UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES NO

X		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	X	3. Does the action deny a fundamental attribute of ownership? (ex.: right to exclude others, disposal of property)
	X	4. Does the action deprive the owner of all economically viable uses of the property?
	X	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If no, go to (6)].
		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	X	6. Does the action have a severe impact on the value of the property? (consider economic impact, investment-backed expectations, character of government action)
	X	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally?
	X	7a. Is the impact of government action direct, peculiar, and significant?
	X	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged or flooded?
	X	7c. Has government action lowered property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?
	X	Takings or damaging implications? (Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b; the shaded areas)

If taking or damaging implications exist, the agency must comply with §5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, preparation of an impact assessment will require consultation with agency legal staff.


Signature of Reviewer


Date